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FIREMAN'S FUND INSURANCE COMPANY,
a foreign corporation a/s/o BASIC RESOURCES, INC.
and GEORGE REED, INC., a foreign corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

FIREMAN'S FUND INSURANCE
COMPANY, a foreign corporation
a/s/o BASIC RESOURCES, INC.
and GEORGE REED, INC., a foreign
corporation,

Plaintiff,

vs.

GERLING AMERICA INSURANCE
COMPANY, a foreign corporation,

Defendant.

CASE NO. C 07 06302 CRB

**PLAINTIFF'S NOTICE OF MANUAL
FILING NOTIFICATION: OF EIGHT (8)
VOLUMES OF TRIAL TRANSCRIPTS
FROM UNDERLYING STATE COURT
ACTION NECESSARY FOR COURT'S
CONSIDERATION OF MOTIONS FOR
SUMMARY JUDGMENT DUE TO BE
FILED: JULY 3, 2008 (D.E. 30) [GEN.
ORDER NO. 45 VII] RELATED
ENTERIES: D.E. 48, 49, 49-2**

Plaintiff, FIREMAN'S FUND INSURANCE COMPANY ("FFIC") a/s/o BASIC
RESOURCES, INC. ("BASIC RESOURCES") and GEORGE REED, INC. ("GEORGE REED")
by and through undersigned counsel and pursuant to the Federal Rules of Civil Procedure, the Local
Rules of Practice in Civil Proceedings before this Federal Court, and General Order No. 45, as

PLAINTIFF'S NOTICE OF MANUAL FILING NOTIFICATION: OF EIGHT (8) VOLUMES OF TRIAL TRANSCRIPTS FROM
UNDERLYING STATE COURT ACTION NECESSARY FOR COURT'S CONSIDERATION OF MOTIONS FOR SUMMARY
JUDGMENT DUE TO BE FILED: JULY 3, 2008 (D.E. 30) [GEN. ORDER NO. 45 VII] RELATED ENTERIES: D.E. 48, 49, 49-2

1 amended 11-18-2004, VII: "Manual Filing" hereby files/serves this Notice of Manual Filing
2 Notification and so states:

3 1. This litigation presents an insurance dispute which arises out of the Underlying State
4 Court Action entitled: FIREMAN'S FUND INSURANCE COMPANY a/s/o BASIC
5 RESOURCES, INC. and GEORGE REED, INC. v. GENCOR INDUSTRIES, INC., Case No.: 04-
6 CA-007746, in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.
7 The Underlying State Court Action was tried before a Jury who returned a Verdict for FFIC and
8 against GENCOR INDUSTRIES, INC., the insured of Defendant, GERLING AMERICA
9 INSURANCE COMPANY.
10

11 2. At the April 11, 2008 Initial Case Management Conference, the presiding Judge, The
12 Honorable Charles R. Breyer directed and ordered the parties to file their respective Motions for
13 Summary Judgment on or before July 3, 2008 (D.E. 30).
14

15 3. In conjunction herewith, Plaintiff, FFIC has filed Docket Entry 48: Plaintiff's Motion
16 for Court to Take Judicial Notice of Court Records of Underlying State Court Action for (in
17 Support of) Motion for Final Summary Judgment [due to be filed July 3, 2008 (D.E. 30)] and for
18 All other Purposes [F.R.E. 201], which seeks Judicial Notice, *inter alia*, of these Trial Transcripts.
19

20 4. The Trial Transcripts are necessary and relevant for the Plaintiff's Motion for Final
21 Summary Judgment to be filed July 3, 2008 because this present dispute arises out of the
22 Underlying case as well as for this Court's consideration and resolution of the parties Motions to be
23 filed as ordered (D.E. 30) on or before July 3, 2008.

24 5. Due to the size, i.e. eight (8) volumes of trial transcripts, it is not feasible/possible to
25 electronically file these transcripts.
26
27
28

6. Therefore, manual filing of these transcripts is necessary. The transcripts have been previously mailed to the Clerk of Court and are indentified from the Underlying State Court Action:

1. Volume 1 (Pages 1 – 142), Dated January 22, 2007
2. Volume 2 of 8 (Pages 143 – 333), Dated January 23, 2007
3. Volume 3 of 8 (Pages 334 – 419), Dated January 23, 2007
4. Volume 4 (Pages 420 – 601), Dated January 24, 2007
5. Volume 5 (Pages 602 – 718), Dated January 24, 2007
6. Volume 6 of 8 (Pages 719 – 904), Dated January 25, 2007
7. Volume 7 of 8 (Pages 905 – 987), Dated January 25, 2007
8. Volume 8 (Pages 988 – 1173), Dated January 26, 2007

7. These Transcripts are also incorporated by reference in the Notice of Filing (D.E. 49) and as Composite Exhibit 1 of the First Supplemental Declaration of Jon D. Derrevere (D.E. 49-2) as Composite Exhibit 1.

WHEREFORE, Plaintiff, FIREMAN'S FUND INSURANCE COMPANY ("FFIC") a/s/o BASIC RESOURCES, INC. and GEORGE REED, INC. respectfully requests this Court and the Clerk of the Court to accept for Manual Filing the above-described eight (8) volumes of Trial Transcripts necessary for the Court's ultimate resolution of this present litigation.

DATED: 1st DAY OF July 2008.

By: */S/ Jon D. Derrevere*
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Co-counsel for Plaintiff

PROOF OF SERVICE

Fireman's Fund Ins. Co. v. Gerling American Ins.

United States District Court, Northern District of California

Case No.: C 07 06302 CRB

I am employed in the City and County of West Palm Beach, State of Florida. I am over the age of 18 and not a party to the within action; my business address is: Derrevere, Hawkes & Black, 470 Columbia Drive, Building "B", West Palm Beach, Florida 33409.

On July 1st, 2008, I served the foregoing document(s) described as:

PLAINTIFF'S NOTICE OF MANUAL FILING NOTIFICATION: OF EIGHT (8) VOLUMES OF TRIAL TRANSCRIPTS FROM UNDERLYING STATE COURT ACTION NECESSARY FOR COURT'S CONSIDERATION OF MOTIONS FOR SUMMARY JUDGMENT DUE TO BE FILED: JULY 3, 2008 (D.E. 30) [GEN. ORDER NO. 45 VII] RELATED ENTERIES: D.E. 48, 49, 49-2

On the interested parties in this action by placing [] the original ☒ a true copy thereof enclosed in a sealed enveloped addressed as stated below:

[] BY REGULAR MAIL:

I caused such envelopes to be deposited in the United States Mail at West Palm Beach, Florida with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service each day and that practice was followed in the ordinary course of business for the service herein attested to.

[X] BY ECF:

I HEREBY CERTIFY that on this 1st day of July, 2008, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on: TINO X. DO, Barger & Wolen, LLP, 650 California Street, 9th Floor, San Francisco, CA 94108, tdo@barwol.com and CHARLES K. BRUNN, Brunn & Flynn, 928 12th Street, Suite 200, P.O. Box 3366, Modesto, CA 95354, CBrunn@Brunn-Flynn.com via transmission of Notices of Electronic Filing generated by CM/ECF.

[X] FEDERAL - I declare that I am employed in the office of a member of the Florida Bar, admitted to practice in all Florida Courts and who makes this Pro Hac Vice Application, that our co-counsel and sponsor is a member of the bar of this California Court, and at their direction this service was made. Executed at West Palm Beach, Florida on July 1st, 2008.

NAME: *Deanna N. Menendez*

Signature: *Deanna N. Menendez*

PLAINTIFF'S NOTICE OF MANUAL FILING NOTIFICATION: OF EIGHT (8) VOLUMES OF TRIAL TRANSCRIPTS FROM UNDERLYING STATE COURT ACTION NECESSARY FOR COURT'S CONSIDERATION OF MOTIONS FOR SUMMARY JUDGMENT DUE TO BE FILED: JULY 3, 2008 (D.E. 30) [GEN. ORDER NO. 45 VII] RELATED ENTERIES: D.E. 48, 49, 49-2